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7 **UNITED STATES BANKRUPTCY COURT**
 8 **DISTRICT OF NEVADA**

9 **In Re:**

10 **USA Commercial Mortgage Company**
 06-10725 – Lead Case

11 **USA Capital Realty Advisors, LLC**
 06-10726

12 **USA Capital Diversified Trust Deed Fund,**
 LLC
 06-10727

13 **USA Capital First Trust Deed Fund, LLC**
 06-10728

14 **USA Securities, LLC**
 06-10729

15 Debtors.

) Jointly Administered

) Chapter 11 Cases

) Judge Linda B. Riegle Presiding

**EX PARTE APPLICATION FOR
 ORDER SHORTENING TIME
 PURSUANT TO FED. R. BANKR.
 P. 2014(a) FOR ORDER UNDER
 SECTION 1103 OF THE
 BANKRUPTCY CODE
 AUTHORIZING THE
 EMPLOYMENT AND RETENTION
 OF SIERRA CONSULTING
 GROUP, LLC AS FINANCIAL
 ADVISORS TO THE OFFICIAL
 UNSECURED CREDITORS'
 COMMITTEE FOR USA
 COMMERCIAL MORTGAGE
 COMPANY**

20 Date: August 4, 2006 (**OST Requested**)

21 Time: 1:30 p.m. (Time may be 9:30 a.m.)

Affecting:

.. All Cases

or Only:

.. USA Commercial Mortgage Company
 .. USA Capital Realty Advisors, LLC
 .. USA Capital Diversified Trust Deed Fund,
 LLC
 .. USA Capital First Trust Deed Fund, LLC

26 **TO THE HONORABLE LINDA B. RIEGLE, U.S. BANKRUPTCY JUDGE:**



1 The Unsecured Creditors' Committee for USA Commercial Mortgage Company
2 (the "Committee"), by and through its attorneys, Lewis and Roca LLP, has filed their
3 Application pursuant To Fed. R. Bankr. P. 2014(A) For Order Under § 1103 of the
4 Bankruptcy Code Authorizing the Employment and Retention of Sierra Consulting Group,
5 LLC as Financial Advisors to the Official Unsecured Creditors' Committee For USA
6 Commercial Mortgage Company (the "Sierra Application"). This ex parte application is
7 made and based upon Fed. R. Bankr. P. 9006, the following memorandum of points and
8 authorities and Declaration of Rob Charles (the "Charles Declaration"), the Attorney
9 Information Sheet filed contemporaneously herewith, and the papers and pleadings on file
10 herein, judicial notice of which is respectfully requested.

11 **WHEREFORE**, the Committee respectfully requests that this Honorable Court
12 grant this ex parte application and issue an order shortening time to hear the Sierra
13 Application at the Omnibus Hearing on August 4, 2006 (the "August 4 Hearing"), and for
14 such other and further relief as the Court deems just and proper.

15

16 **MEMORANDUM OF POINTS AND AUTHORITIES**

17 Pursuant to the Amended Order Establishing Case Management Procedures [DE
18 274] all motions, pleadings, applications, other requests for relief, objections, responses
19 and replies thereto, and all other matters shall not be considered by the Court unless it is
20 filed and serve at least twenty-five days prior to the next Omnibus Hearing Date.
21 Therefore, the Committee requests the period of notice be shortened and the hearing
22 expedited. Section 105, Title 11 U.S. Code (the "Bankruptcy Code") allows this Court to
23 issue such orders as are necessary to carry out the provisions of this title. Fed. R. Bankr.
24 P. 9006(c)(I) generally permits a Bankruptcy Court, for cause shown and in its discretion,
25 to reduce the period during which any notice is given in accordance with the Bankruptcy
26 Rules. Bankruptcy Rule 9006(c)(I) provides as follows:



Except as provided in paragraph (2) of this subdivision, when an act is required or allowed to be done at or within a specified time by these rules or by a notice given thereunder or by order of court, the court for cause shown may in its discretion with or without motion or notice order the period reduced.

11 U.S.C. § 105. Local Rule 9006 provides further authority for shortening the time for a hearing. According to Local Rule 9006(b), every motion for an order shortening time must be accompanied by an affidavit stating the reasons for an expedited hearing. As set forth in the Burr Declaration, there is a compelling reason for an expedited hearing.

Local Rule 9006 requires the moving party to submit an Attorney Information Sheet indicating whether opposing counsel was provided with notice, whether opposing counsel consented to the hearing on an order shortening time, the date counsel was provided with notice and how notice was provided or attempted to be provided. An attorney Information Sheet was filed contemporaneously with this ex parte motion.

DECLARATION OF ROB CHARLES

I, Rob Charles, declare under penalty of perjury:

1. I am over the age of 18, am mentally competent, have personal knowledge of the facts in this matter, and if called upon to testify in this matter, could and would do so.

2. I am a partner with Lewis and Roca LLP, attorneys for the Committee described below. This declaration is submitted in support of the Ex Parte Application by the Unsecured Creditors' Committee for USA Commercial to shorten time for hearing the Sierra Application.

3. On April 13, 2005 (the “Petition Date”), USA Commercial Mortgage Company (“USA Mortgage”), USA Securities, LLC (“USA Securities”), USA Capital Realty Advisors, LLC (“USA Realty”), USA Capital Diversified Trust Deed Fund, LLC (“USA Diversified”), and USA Capital First Trust Deed Fund, LLC (“USA First” and, collectively with USA Mortgage, USA Securities, USA Realty, and USA Diversified, the



1 "Debtors") filed voluntary petitions for relief under Chapter 11, Title 11 of the United
2 States Code.

3 4. On May 16, 2006, a Notice of Appointment of Official Committee of
4 Unsecured Creditors for USA Commercial Mortgage Company was filed by the Office of
5 the U.S. Trustee.

6 5. The Committee had considered retaining a Financial Advisor. It interviewed
7 Sierra and others on July 11, 2006, and on July 14, 2006, the Committee decided to retain
8 Sierra as its financial advisor.

9 6. An omnibus hearing has been scheduled for August 4, 2006, at which time
10 certain motions and applications are scheduled to be heard, including:

- 11 • Debtor's Motion to Temporarily Hold Funds Pending A
Determination of the Proper Recipients;
- 12 • Direct Lenders' Motions: (1) Motion to Compel Debtor to
Continue to Forward Lender Payment to Direct Lenders; and (2)
to Delay or Prohibit Appraisals on Performing Loans;
- 13 • Motion Directing Payments to Direct Lenders;
- 14 • Motion to Use Cash Collateral through July 29 2006 Pursuant to
Second Revised Budget;
- 15 • Motion for Relief from Automatic Stay to Terminate Loan
Services Agreement for Direct Loan to Boise/Gowan, LLC
- 16 • Debtors' Motion to Distribute Funds and to Grant Ordinary
Course Release and Distribute Proceeds
- 17 • Motion for Order Approving Continued Use of Cash Through
October 29, 2006 Pursuant to Third Revised Budget;
- 18 • Application for Administrative Order Establishing Procedures
for Interim Compensation and Reimbursement of Expenses of
Professionals
- 19 • Motion for Relief from Automatic Stay filed by Attorneys for
Rolland P. Weddell and Spectrum Financial Group
- 20 • Motion for Order Approving Continued Use of Cash Through
October 29, 2006 Pursuant to Third Revised Budget

21 7. As this Court is well aware, the Chapter 11 Cases are moving forward at an
extraordinary pace, and therefore it is critical that Sierra be employed as the Committee's
22 Financial Advisor. Sierra's services relate directly to motions on the Court's August 4,
23



1 2006 calendar. As such, it is necessary that the Application be heard at the August 4, 2006
2 hearing. Notably, the Office of the U.S. Trustee, counsel for the above-captioned Debtors,
3 and counsel for the Committees have agreed to have the Court consider the Application on
4 shortened time.

5 I make this declaration under penalty of perjury of the laws of the United States of
6 America.

7 DATED: July 18, 2006

8 **LEWIS AND ROCA LLP**

9 _____
10 /s/ RC (#006593)

Rob Charles

11 **CONCLUSION**

12 **WHEREFORE**, the Committee respectfully requests that this Honorable Court
13 grant this ex parte application and issue an order shortening time to hear the Sierra
14 Application and for such other and further relief as the Court deems just proper.

15 DATED July 18, 2006.

16 **LEWIS AND ROCA LLP**

17 _____
18 By: _____

19 Susan M. Freeman
Rob Charles

20 *Attorneys for Official Committee of Unsecured
Creditors for USA Commercial Mortgage
Company*

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